

JEFFERSON COUNTY COMMISSIONERS
COURTHOUSE, BOX H
BOULDER, MT 59632
PHONE 406-225-4025
FAX 406-225-4148

KEN WEBER, CHAIR

CHUCK NOTBOHM

TOM LYTHGOE

**PROCEEDING OF THE BOARD OF COMMISSIONERS
COUNTY OF JEFFERSON, STATE OF MONTANA
August 28, 2007**

Present: Commissioners Lythgoe, Notbohm and Weber; Ernie Kenison, Harold Stepper, Bill Gruber, Joe Carter, Jan Anderson, Bruce Wager, Ken and Marlos Bates, Joe Steiner

MINUTES

Commissioner Lythgoe moved to approve the minutes of August 7. Commissioner Notbohm seconded. The motion carried.

CALENDAR REVIEW

8/29 Meet with Jefferson Valley Search and Rescue - 3:00
8/30 Solid Waste board - 7:00
9/03 Holiday - County offices closed
9/04 E-9-1-1 meeting - 7:00

COMMISSION REPORTS

Commissioner Weber reported that the Commissioners had a budget meeting that morning with Bonnie. The budget is now available in the Clerk and Recorder's office, as well as on the website.

Commissioner Notbohm reported that a zoning commission meeting was held the previous Thursday. He suggested that Harold talk about what happened. Harold Stepper, County Planner stated that they discussed how to proceed forward. They are going to start on the west side of the interstate and will do an overlay of parcels onto existing zoning. They will then go to the east side and do sections in phases. In the Sawmill area, there are three requests for zoning changes. They will deal with those when they are on that phase. Commissioner Lythgoe stated that the only thing that he would add is that they have invited, and need to formally invite Dick Johnson of Ash Grove and Tony Cloker of the Montana City school district to take part in the discussion. They are both directly affected. One thing that he proposed to Ash Grove is to look at their property and develop a no development zone on the border of their property. Dick

Johnson brought this up to corporate, who thought it was a good idea. They are close to completion of a geological survey, so will know where the limestone is. After that, the County will have some direction as to where a buffer is needed. Commissioner Weber stated that they may want to look at what size buffer is needed, ours and theirs.

CORRESPONDENCE

Commissioner Weber stated that he has been presented with a letter from the Road Department to go to residents of the county who have expressed an interest in the dust control cost share program. Commissioner Weber read the letter. Also included is a petition for the cost-share program. He stated that this is a good program, and people have been happy with it. Commissioner Lythgoe asked if Joe is proposing to send the letter out to everyone in the county. Joe Carter, Road Supervisor, stated that it will be sent to people who have requested dust control.

ITEMS FOR COMMISSIONERS ACTION OR REVIEW

AWARD BID FOR SADDLE MOUNTAIN RID PROJECT

Commissioner Weber stated that the Commission has received a letter from Great West Engineering with a letter of recommendation to award the bid for the Saddle Mountain RID project to Gruber Excavating. Also attached is the notice of award. The stated reason they recommend the project be awarded to Gruber is that they were the low bidder on the base as well as contingency bid with a total of \$321,659.50. Commissioner Weber moved to award the bid to Gruber Excavating. Commissioner Notbohm seconded. Commissioner Notbohm stated that the bids came in very close. The motion carried. Bill Gruber asked if there is any indication of a start date? Commissioner Lythgoe stated that the engineer indicated that morning that it could be week after next. Bill stated that he would like to start sooner, so that chip seal can be done this year. Also, price of oil could change drastically if need to wait until next spring. Commissioner Weber stated that they would be very happy to have them start sooner if they wish and suggested that Bill contact Great West. He noted that it is also their hope to have the roads chip sealed this year.

DISCUSS AND DECIDE ON SADDLE MOUNTAIN SERVICES REQUEST FOR REIMBURSEMENT OF TAX DEED COSTS

Commissioner Weber stated that Saddle Mountain Services is a homeowner's association that had a tax deed through which they lost the piece of ground where their water storage for fire mitigation was located. Saddle Mountain Services is requesting that the cost incurred in taking care of tax deed problems and getting the land back be reimbursed by the county. Joe Stiener stated that he is the new president of Saddle Mountain Services. His understanding is that they have three storage reservoirs. One has been there for 25-30 years and sits on lot 15. What he understands is that there was a fire abatement fee that, they feel, was levied in error. The land was sold through tax deed. They only found out about it when there were informed by DNRC. Joe stated that he understands that the lot and water storage was sold for \$125. Through

negotiation, they bought the lot back for \$4051.67 total for legal fees, etc. The DNRC also assessed them legal fees of \$827.00. He feels that there was an error in the tax process at the county, and that the county should be responsible, not the homeowners. What he understands is that the tax notice came back to the county and they did not forward on. The homeowner's association has had the same address for years and years. Commissioner Weber asked if they have addressed any of this to the State. He noted that the Department of Revenue does the assessments, and keeps track of addresses. Commissioner Notbohm asked who put up the money for buying it back? Joe stated that Saddle Mountain Services paid the fees out of the user fees. They have paid all but the \$827 to DNRC. Commissioner Lythgoe stated for clarification that the bill was addressed improperly, sent to an address in East Helena, came back, and hit a dead box. Joe stated that this is a new assessment, for a wildfire protection fee. Commissioner Weber noted that this was a fee, not a tax. And since this was something new, not something that they had been paying and just wasn't there any longer, they didn't realize that they weren't being billed.

Commissioner Lythgoe stated that they received a memo from the County Attorney that a lawsuit was filed and dismissed. Also, per the Treasurer and Assessor, a non-profit is still assessed fire protection and must be paid. Those are the fees that were left unpaid. Matt noted that even though various entities of government may use a different address for mailing items to this corporation, the address for mailing a tax statement will not change without some type of update to the Assessor's or Treasurer's Office. Further, the Assessor's Office is responsible for addresses for tax statements and that office is a state office, rather than a county office.

Commissioner Lythgoe stated that they were to pay the fee is not in question. That the address was wrong and they didn't have the opportunity to pay is problematic. That they had to pay the amount they needed to pay to get back a piece of property already owned is disturbing to him. There may still need to be some investigation on this issue. He doesn't care about the outcome of the lawsuit, but he feels that there needs to be more investigation to determine what role the County played. Commissioner Weber asked about the address, and noted that apparently it was a correct address at some point. Joe stated that he is not sure, but he can check. If so, it hasn't been used for many years. Commissioner Notbohm asked who does the mailing on those bills. Commissioner Weber stated that we do, based upon the state's addressing and assessment. The state is responsible for having the correct addresses. Commissioner Lythgoe stated that potentially, we have some responsibility if it comes back to the county. We need to check with Patty to see what their procedure is. Commissioner Notbohm stated that in the homeowner's association bookkeeping, they should have noticed that they were not paying any longer. Commissioner Lythgoe noted that it was a new fee, so they were not aware. That is his understanding, anyway. Joe stated that this is his understanding also. It came back to the county, but the homeowner's association has been in existence for 25 years. They are the only source of water in the area. Harold stated that he thinks one reason there was an East Helena address is that Ed Maronik was the developer.

Commissioner Weber stated that as for why the ad was in the *Whitehall Ledger*, the legal paper of record; all legal ads to go there. As to why their information was not updated, the state has not answered. He is also wondering why they were getting a tax bill and this not included. Joe

stated that they are asking for this from the Commissioners because they feel that there is at least a shared responsibility. Commissioner Notbohm stated that he can't see where Jefferson County is responsible. Commissioner Weber asked if the homeowner's association has a loan with DNRC. Joe stated that they do for the installation of a new well and pumping system. Because of this, they were notified of the sale. Commissioner Weber asked if the DNRC was only notified after title was transferred, or if they were being notified all along. Joe answered that he believes that they were informed after the fact. They then incurred fees to help get the money back. Commissioner Weber asked about the particulars of suit. Joe stated that it was the CRC Corporation who bought the land through tax sale.

Commissioner Lythgoe stated he thinks that the County has some obligation to look at this further. We may have some obligation to participate financially. Commissioner Weber said that the gap in the chain that is missing in his mind is the state piece and why the incorrect address. He thinks that it would be appropriate to wait two weeks. This would give them time to talk to the state to see why this occurred and to discuss options. Commissioner Lythgoe stated that he thinks that is where we fell short. If we get something back, with name on it that is familiar, we have some responsibility to see what is going on. He would also like to know why the fee was not on tax bill. Joe stated that he has researched all the property that they own to make sure that addresses are correct. This item will be on the agenda in two weeks.

RESOLUTION 29-2007 RESOLUTION OF INTENT TO CREATE AN AG COVENANT ON THE BATES MINOR SUBDIVISION

Harold Stepper, County Planner, presented the resolution of intent. The Bates recently did a subdivision, and have requested that an agricultural covenant be created on one of the parcels. An agricultural covenant has to be created and lifted by the Bates and the Commission. There are no buildable sites on the property. Commissioner Notbohm asked the purpose of this. Harold stated that it is so that no further development can take place on the property. Commissioner Weber stated that while not buildable for a residence, the land could potentially be used for a parking lot or storage facility. This protects the land from this. Harold stated this is a way to protect property in an agricultural area.

Commissioner Notbohm moved to approve Resolution 29-2007. Commissioner Lythgoe seconded. The motion carried.

DISCUSS AND DECIDE ON REQUEST REGARDING SKYLINE DRIVE STATUS AS A COUNTY ROAD

Joe Carter, Road Supervisor, stated that he has done a lot of research and gotten research from the Clerk and Recorder's office. Minutes indicate that Skyline Drive was accepted as a county road in November 2000. Commissioner Weber stated that a couple of concerns he has heard is that there are a couple of encroachments in the right-of-way, and the cul-de-sac is in such disrepair as to not even appear to be in existence. Joe said that he has talked to the existing landowner. He has some timbers near the road and doesn't want to take them out, but is willing to if needed. Joe stated that he feels they should be removed, for drainage and maintenance

purposes. The cul-de-sac seems never to have been built, and he is not sure why. He noted that there is also an easement past the cul-de-sac. The new landowner of the lot just past the cul-de-sac plans to build a house and a shop. Commissioner Lythgoe asked if there is anything in the minutes stating that county would build the cul-de-sac. Joe stated that there is nothing that he can find. Commissioner Weber stated that the cul-de-sac was designed in the road, but was never built. Commissioner Notbohm stated that he has done some research too, but he can't find any agreement for the county to build the cul-de-sac. Commissioner Weber asked if the Commission at the time outlined the length of the road. Joe stated that they did not. The petition from the landowners stated that the road is approximately one-half mile in length. Commissioner Notbohm said at the time this was put together in 84, and when the road was accepted in 2000, a road book on maintenance was kept. Commissioner Weber stated that the concern is about the encroachment of the fence and timbers, and the lack of a cul-de-sac.

Brad Alexander stated that he is in attendance to represent his parents who purchased the property. Their question is if the cul-de-sac needs to be there or needs to be that large. Their lot is limited on building sites, so it would help if the cul-de-sac was not there.

Mark Williams, stated that he lives a couple blocks from end of road. It would be nice to have the cul-de-sac completed as there is no place to turn around at the end. All the neighbors that he has spoken with feel that it would be a good idea. Commissioner Notbohm stated that in all the research Joe has done there is no mention of a cul-de-sac. It was stated that the cul-de-sac is on the original drawing. Joe noted that there is land for sale beyond the cul-de-sac. There is the possibility that the road would continue on. Brad stated that he doesn't really have a problem with cul-de-sac being there, but questions if it really needs to be that large. Joe stated that it is necessary for adequate emergency vehicle turn-around. Commissioner Lythgoe said that it would make sense to have the cul-de-sac on the 11-acre parcel.

Commissioner Weber stated that it is obvious that Skyline was taken as a county road. Joe has indicated to him that dirt is there to move and through regular maintenance the cul-de-sac would be formed. Joe noted that the dirt is actually on Brad's property, and they would be doing a favor to them by flattening the area out. Brad is willing to have the dirt be used, but the concern would be with how high the cul-de-sac would be.

They reviewed a copy of the plat. Commissioner Weber asked, regarding the drainage, if they built the cul-de-sac, would the dirt on Brad's property be enough or would they have to haul in road mix. Joe stated that he feels that they could use the existing dirt and could slope it off and it would help them out some, since it is a steep lot. Commissioner Weber asked if it would make a difference if the cul-de-sac was at the beginning or end of lot. Brad said that he doesn't think that it would make a difference either way. They would just like to know where it is going to be before they start building. Commissioner Weber asked if it would be beneficial for us to use the dirt. Brad stated that he is not sure either way. It is currently hiding some stuff behind them, but there will be a building there anyway. Commissioner Weber asked Joe if they should start maintaining the area past the fence and start turning around to form the cul-de-sac.

Commissioner Lythgoe asked if the Commission needed to vote to decide. Commissioner

Weber stated that this is already done. Commissioner Lythgoe asked if this is the best place to have the cul-de-sac? Brad stated that it really is. It would impede them less there, and there would also be less road for the County to maintain. Commissioner Notbohm stated that he tends to agree with Commissioner Lythgoe; he doesn't want to get in the habit of building roads in subdivisions. Commissioner Weber stated that he thinks one reason the County agreed to take the road is that it is a bus route and also leads to an assisted living facility that houses 15 people. These are two mitigating factors as to why we are there and why we are maintaining it. He asked if the Commissioners think that they need a motion to continue to maintain and to maintain the cul-de-sac? With the discussion, feels that it is an administrative decision. Commissioner Notbohm noted that if the County does work on someone's property and uses their dirt, there needs to be an agreement. Commissioner Weber suggested that the County will also need to help with weed abatement. Commissioner Lythgoe stated that they will also need to know what the height of the cul-de-sac will be. Joe stated that currently the road comes in and then dips down. They can pull that dirt in and level it off and make it at the same level as the existing road, or possibly with a slight drop. He can get with Brad and draw up an agreement on using the dirt and will run past Matt. Commissioner Weber stated that he was hoping that Mr. Lagry would be here today. He asked Joe that when he does speak with him, to let him know that the timbers need to be moved.

DISCUSS CONCERNS WITH LAND SWAP BETWEEN JEFFERSON COUNTY AND BRUCE AND JACKIE WAGNER

Commissioner Notbohm stated that his reason for putting this on the agenda, is that he was hoping that some dialog would have happened before this. He approached Bruce Wagner to see if he was interested in selling his building. He saw Bruce come in to talk to the other Commissioners, assuming that this is what he was in to discuss, but he never heard anything about it. The Commission hired an appraiser, but this was never on the agenda, and same appraiser was used for both, which isn't a good practice. Also, the land should have been considered to go to the Road Department, as it is handy to them and they could use the room. Commissioner Weber stated that he is not sure that he ever heard any discussion about giving the land to the Road Department either. Commissioner Notbohm stated that the County sold land to the Molitors, who needed to build office buildings right away. They had Swede appraise the land, and there is still no building there. Land was also given to the fire department. At the time they were working with the Molitor deal, they had discussed that they could use the remaining two acres for Road Department storage. Nothing was ever put in writing .

Commissioner Weber stated that Mr. Wagner came with an offer for a land swap. This was done in a Commission meeting. Another appraiser has been approached for a new appraisal. Bruce has spoken to each of the Commissioners at various times, but he and Commissioner Lythgoe haven't meet with him together. Commissioner Notbohm stated that he is not even sure who ordered the appraisal. Commissioner Lythgoe stated that he did have a conversation with Bruce at one time. He didn't know who was doing the appraising, but it made sense to have appraiser do both.

Bruce Wagner stated that he would like to address the appraisal. He ordered and paid for the

appraisal on his building. It was suggested that while the appraiser was out here that he do both to save both money. Commissioner Notbohm stated that he has no problem with Swede; he has known him for years and has used him before. He has no problem with his integrity. However, the house isn't even a good band-aid for the county. If we buy it, we should move it and build something more appropriate to the county. There needs to be something for the future. They should also cut off the Justice Court building at the hallway and start over. He wasn't asked to be involved, so he isn't. He feels that the property out there is too valuable to be considered to be let go for that price. Commissioner Weber stated that Commissioner Notbohm doesn't feel that he is involved, but noted that he is the one that got the ball rolling. Commissioner Notbohm stated that he hasn't seen this on the agenda, and there needs to be a discussion. Commissioner Weber said that it was discussed, and noted that Commissioner Notbohm voted no. Commissioner Notbohm said that they are giving up an asset that was designated to the Road Department, but there is nothing in writing. Commissioner Lythgoe stated that giving the land to the Road Department was discussed, but nothing decided.

Commissioner Notbohm noted that we don't have any more land. This should have been discussed. Commissioner Lythgoe noted that they are discussing it. He thinks that this building, this location is ideal. It completes the campus. He also thinks that what Mr. Wagner has done with the building is very positive and is something that we can use. Also, it is a bonus that there is additional property that we can add on to the building if we decide to. He sees the building as an asset, the vacant land as an asset if decide to add on. But at the current time, sees as a real asset that could solve some problems for not a lot of money. Joe asked if the building is handicap accessible. Commissioner Lythgoe stated that it is, and also noted that it is a two story building. If someone comes in to see someone who has an office upstairs, that person would have to come down to meet them. Joe asked if there is any possibility of purchasing the building and keeping the land. Commissioner Weber stated that the Commission was approached with the land swap idea by Bruce.

Commissioner Notbohm noted that if the County were going to sell the land, it would be a whole different ball game. They can do a swap, but if they are going to sell, they have to go through an auction process. Commissioner Lythgoe stated that he thinks that in the last meeting we discussed this, this could have been discussed at the same time. There were no side deals happening. Commissioner Notbohm stated that he was being shut down enough. Commissioner Lythgoe said that he is glad that it is being discussed now. Commissioner Notbohm said that a whole lot of time has passed since this started. Commissioner Lythgoe stated that proposals were brought forth. Commissioner Notbohm started the process, Bruce talked to him, Bruce talked to Commissioner Weber, and they all came together at the last meeting when they all had the opportunity to discuss in public. Commissioner Notbohm stated that they weren't open to him or the public. He has proof. Commissioner Weber stated that he hasn't heard any proof that the Commission did anything inappropriate. Commissioner Notbohm stated that he didn't say inappropriate. Commissioner Weber noted that Commissioner Notbohm said that they weren't open, and that is inappropriate.

APPOINT BOARD MEMBERS

Moved to future agenda.

Commissioner Lythgoe moved to adjourn. Commissioner Notbohm seconded. The motion carried.

MEETING ADJOURNED

ATTEST:

BONNIE RAMEY
CLERK AND RECORDER

KEN WEBER, CHAIR

TOMAS E. LYTHGOE, COMMISSIONER

CHUCK NOTBOHM, COMMISSIONER